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SOURCE Ta Kung Pao.

PROVISIONAL REGULATIONS GOVERNING ORGANIZATION  
OF PEOPLE'S COURTS OF THE PEOPLE'S REPUBLIC OF CHINA

[The Provisional Regulations Governing the Organization of People's Courts of the People's Republic of China were adopted at the 12th session of the Central People's Government Council.]

I. GENERAL PRINCIPLES

Article 1.

The Provisional Regulations Governing the Organization of People's Courts are enacted in conformity with the provisions of Article 17 of the Common Program of the Chinese People's Political Consultative Conference, and of Articles 5, 26, and 30 of the Organic Law of the Central People's Government.

Article 2

The People's Republic of China shall establish people's courts on the following levels:

1. Hsien people's courts
2. Provincial people's courts
3. The Supreme People's Court

In the autonomous regions of the various minority nationalities, people's courts shall be established on levels corresponding to those of their people's governments in accordance with existing conditions.

The establishment and organization of the people's special courts shall be separately determined by law.

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- 1 -

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Article 3

For the purpose of strengthening the people's democratic dictatorship, preserving the social order of the New Democracy, and protecting all lawful rights and interests, and the revolutionary achievements of the people, the people's courts shall perform the following functions:

1. Try criminal cases and punish offenders against the security and sovereignty of the state, social order, and the lawful rights and interests of individuals and organizations.
2. Try civil cases and settle disputes regarding the rights and interests of individuals, organizations, enterprises, and organs.

The people's courts shall use trials and other methods to educate the litigants and the masses of the people with regard to the observance of the national laws.

Article 4

The people's courts shall adjudge their cases in conformity with the Common Program of the Chinese People's Political Consultative Conference and the provisions of the laws, decrees, decisions, and orders promulgated by the people's government. In the absence of the foregoing provisions, the policy of the Central People's Government shall be used as basis.

Article 5

Basically, the people's courts are to put into practice the three-grade and two-trial system, with the hsien people's court as the basic court of first instance and the provincial people's court as the basic court of second instance. The majority of the cases are to be ended with the second trial, but some cases under unusual circumstances may be ended with a third trial or with the first trial.

If a litigant carries his case to a higher people's court, or appeals his case to a higher people's court because the people's court of original jurisdiction cannot try the case justly, the higher people's court shall handle it in accordance with law.

Article 6

For the purpose of facilitating the participation of the people in trials, the people's courts shall put into operation the people's jury system with due consideration for the nature of case in question. With regard to the cases to be tried by jury, the jurors shall have the right to help to investigate, to participate in the trial, and to express their views.

Article 7

Aside from trying cases in the courts of the original seats, the people's courts shall, in compliance with the requirements of the cases, conduct field investigations or field trials or shall transfer the cases to other jurisdictions.

Article 8

The cases in the people's courts shall be tried in public except those which are to be tried in private in accordance with the law.

- 2 -

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50X1-HUM

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Article 9

People of every nationality shall have the right to use their own language for judiciary proceedings; whenever necessary, the people's courts shall interpret for them.

In the areas where minority nationalities live or where there are mixed nationalities living together, the people's courts shall conduct the judiciary proceedings in the prevailing local language. Whenever necessary, decisions, announcements, and other documents shall, at the same time, be written in the languages of the nationalities concerned.

Article 10

The judiciary activities of the lower court shall be directed and supervised by the higher people's court, and their judiciary administrative work shall be guided by the higher judiciary department.

The people's courts of each level (including branches of the Supreme People's Court and branch judiciary departments) are a constituent part of the people's governments of the same level, and are subject to the direction and supervision of the people's government councils of the same level. The branches of the provincial people's courts and branch judiciary departments shall be subject to the direction of the special officials in their respective areas.

The president of each of the people's courts of all levels shall direct and supervise the entire work of the court. The chief of each judiciary department shall direct and supervise the work of the department. The president or the departmental chief may act as the presiding judge in certain cases.

II. HSIEN PEOPLE'S COURTS

Article 11

The hsien people's courts are the basic courts of first instance, and shall consist of the following:

1. Hsien (banner, hsien, administrative areas similar to a hsien, or autonomous area) people's court
2. Province-controlled municipal people's courts
3. People's courts in areas under the direct jurisdiction of the Central Government Council or of the major administrative regions

Article 12

The hsien people's court shall have jurisdiction over the following matters:

1. Criminal and civil cases of first instance, with the exception of those cases otherwise prescribed by these regulations.
2. Settlement of civil cases and minor criminal cases.
3. Matters concerning the handling of criminal and civil cases.
4. Handling of public witnesses and noncontentious matters as prescribed by law.
5. Directing the conciliation work within its area.

- 3 -

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50X1-HUM

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Article 13

The hsien people's court shall request the provincial people's court to take over for trial those criminal and civil cases that are considered by the hsien people's court as very important and which should be tried by the provincial people's court.

Article 14

In the hsien people's court there shall be a president (when necessary, the hsien people's court and the municipal people's court each may have a vice-president) and a number of judges. The president and vice-president may act as presiding judges.

Those hsien people's courts that have large numbers of cases may establish criminal and civil sections, and each section shall have a section chief.

Article 15

The hsien people's court may establish a judiciary committee consisting of the president, or vice-president, section chief (if there is one) and judges of the court, with the president or vice-president as the chairman of the committee. Whenever necessary, the committee may have a vice-chairman. While holding its meeting, the committee may ask for the participation of the responsible members of the organizations concerned and of those workers who have previously taken part in the cases concerned. If a court has a large number of judges, the president of the court may designate a certain number of them to serve on the judiciary committee.

The judiciary committee shall handle the more serious and doubtful criminal and civil cases, and it shall also give directions with regard to policy and the principles of judicial problems.

Article 16

The criminal and civil cases in the hsien people's court are to be tried before one judge; but if there are serious and doubtful cases, they are to be adjudged by three judges conferring together, or are to be decided by the judiciary committee.

Article 17

In the hsien people's court there shall be a secretary or a secretary-general, a number of clerks and office workers to take care of the matters concerning records, personnel, education through propaganda, secretarial work, general affairs, accounting, statistics, files, inquiry, clerical service, etc. Those hsien people's courts that have large numbers of cases may establish sections to handle their affairs, and each section shall have a section chief and a number of section members. Whenever necessary, the offices concerning education through propaganda, information service, and clerical service shall be specially established in the courts.

In the hsien people's court there shall be guards and examiners. Whenever necessary, the court may have interpreters and a court physician.

**CONFIDENTIAL**

- 4 -

CONFIDENTIAL

50X1-HUM

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III. PROVINCIAL PEOPLE'S COURTS

Article 18

The provincial people's courts are the basic courts of second instance, and shall consist of the following:

1. Provincial (or similar administrative area, or autonomous area) people's courts.
2. Municipal people's courts under the direct jurisdiction of the Central People's Government and the major administrative regions.

Article 19

The provincial people's court shall have jurisdiction over the following matters:

1. Appeals from judgments in criminal and civil cases rendered by hsien people's courts as courts of first instance.
2. Criminal and civil cases in the first instance which are important and of a provincial nature (the provincial people's court shall decide whether a case is important and of a provincial nature).
3. Bringing forward for trial the criminal and civil cases of first instance in the hsien people's courts, and of first and second instances in the branches of the provincial people's courts and branch judiciary departments, which have not yet been decided and which are considered by the provincial people's court as very serious because of their importance or of other reasons.
4. The criminal and civil cases which are handed over with the approval of the provincial people's court by the hsien and municipal people's courts in accordance with the provisions of Article 13.
5. The criminal and civil cases that are to be tried by the provincial people's court as the court of first instance, in accordance with the law.
6. The criminal and civil cases that are handed over by the people's governments above the provincial level, the Supreme People's Court, branches of the Supreme People's Court, or by judiciary departments.
7. Matters concerning the handling of criminal and civil cases.

Article 20

The municipal people's courts under the direct jurisdiction of the Central People's Government and the major administrative regions shall have jurisdiction over the following matters:

1. Appeals from judgments in criminal and civil cases rendered by the ch'u people's courts as courts of first instance.
2. Criminal cases of the first instance involving offenses against national security and against important social orders.
3. Criminal and civil cases of the first instance involving disputes concerning labor and management, public property, state-operated and large private enterprises, and enterprises operated jointly by the state and private citizens.
4. Criminal and civil cases of the first instance affecting overseas Chinese, and overseas organs and organizations.
5. Other cases of the first instance in accordance with the provisions of Paragraphs 3-6 of the preceding article regarding the provincial people's court.

- 5 -

CONFIDENTIAL

**CONFIDENTIAL**

50X1-HUM

**CONFIDENTIAL**

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6. Matters concerning the handling of criminal and civil cases.
7. Matters concerning public witness and noncontentious cases.

Whenever necessary, the municipal people's court may request a higher people's court to assign certain cases of first instance under its jurisdiction to a ch'u people's court; or to remove certain cases from a ch'u people's court, and assign them to a municipal people's court.

Article 21

Decisions on criminal and civil cases of the second instance rendered by the provincial people's court shall be final. But the court shall permit litigants to appeal for a third trial with regard to the serious and doubtful cases, and it shall so state in its decisions.

Article 22

The provincial people's court shall direct and supervise the judicial activities of the hsien people's courts under its jurisdiction, and it shall be in charge of the judicial administration of the whole area under the leadership of the higher judiciary department.

Article 23

The provincial people's court shall have a president, it may have one or two vice-presidents; it shall establish criminal and civil affairs departments consisting of a department chief, and one or two assistant department chiefs, and it shall have a number of judges. The president (or vice-president) may serve concurrently as department chief.

The provincial people's court may establish a judicial committee; and for the organization and functions of the committee, the court shall be permitted to use the provisions of Article 15 concerning the judiciary committee of the hsien people's court.

Article 24

The criminal and civil cases in the provincial people's court are to be tried before a bench of three judges conferring together, but those cases which do not need trial by three judges may be tried by one judge.

Article 25

The provincial people's court shall have a secretary-general or a chief secretary, and under him there shall be established various sections consisting of section chiefs and members, and a number of workers to be charged with the matters concerning personnel, education through propaganda, secretarial work, general affairs, accounting, statistics, files, etc. They shall be charged with the matters concerning the judiciary administration of the whole area. The court shall have a number of clerks (may have a chief clerk) to take care of records and other related matters, and it may have an office of information and clerical service.

The provincial people's court shall have a number of guards, and when necessary it may have interpreters, a court physician, and examiners.

**CONFIDENTIAL**

- 6 -

CONFIDENTIAL

50X1-HUM

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Article 26

Whenever necessary, the provincial people's court may establish branch provincial people's courts or branch judiciary departments for the purpose of carrying on the functions of the provincial people's courts within their respective areas, and the decisions of the branches cannot be appealed to the provincial people's court.

The branch provincial people's courts and branch judiciary departments shall be subject to the direction and supervision of the provincial people's court, and they shall direct and supervise the judicial activities of the hsien people's courts within their respective areas.

IV. SUPREME PEOPLE'S COURT

Article 27

The Supreme People's Court of the Central People's Government, as the highest judiciary organ of the country, is charged with the direction and supervision of the judiciary activities of all the judiciary organs of the country.

Article 28

The Supreme People's Court shall have jurisdiction over the following matters.

1. Appeals from judgments in criminal and civil cases rendered by the provincial people's courts as courts of first instance, and appeals from judgments in criminal and civil cases rendered by the provincial people's courts as courts of second instance and permitted to be appealed.
2. Criminal and civil cases of first instance involving encroachment upon the national security of the country and upon public property, and other unusually serious criminal and civil cases of first instance.
3. The criminal and civil cases that are to be decided by the Supreme People's Court as court of first instance in accordance with law.
4. The criminal and civil cases of first instance that are handed over by the Central People's Government.
5. Bringing forward for trial the criminal and civil cases in the people's courts of various grades (including branches of the Supreme People's Court, and branch judiciary departments, which may or may not have been tried by the courts.
6. Selection and examination of certain criminal and civil cases which have already been decided by the people's courts of various levels (including branches of the Supreme People's Court and branch judiciary departments) for the purpose of directing and supervising the judicial activities of the courts (if grave errors are found in the final judgments, they shall be dealt with in accordance with judiciary procedure).

Article 29

The decisions by the Supreme People's Court on all criminal and civil cases are to be final.

**CONFIDENTIAL**

- 7 -

CONFIDENTIAL

50X1-HUM

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Article 30

In the Supreme People's Court there shall be a president, two to four vice-presidents, 13 to 21 members of the court, and a secretary-general.

Article 31

The Supreme People's Court shall establish criminal and civil affairs departments, and it may establish other special departments consisting of a president, two vice-presidents, and a number of judges.

Article 32

The Supreme People's Court may establish branches or branch judiciary departments in various major administrative regions and in other areas for the purpose of carrying on the functions of the Supreme People's Court in their respective areas.

Article 33

The branches and the judiciary departments of the Supreme People's Court, under the direction and supervision of the court, shall direct and supervise the judiciary activities of the people's courts of various levels within their respective areas.

Article 34

The decisions on criminal and civil cases by the branches and the judiciary departments of the Supreme People's Court are to be final, but the more serious and doubtful cases are to be sent to the Supreme People's Court for its decisions.

Article 35

The branches of the Supreme People's Court shall have a president and one or two vice-presidents; it shall establish criminal and civil affairs departments consisting of a department chief and one or two assistant department chiefs; and it shall have a number of judges.

The branches of the Supreme People's Court shall each have a secretary-general.

V. WORKING RELATIONSHIP BETWEEN PEOPLE'S COURTS  
AND PEOPLE'S PROSECUTOR'S OFFICES

Article 36

With regard to public prosecutions instituted by the people's prosecutor's offices, the prosecutors shall participate in trials as prosecutors (plaintiffs) of the state; they may also participate in the consideration of the cases which are being investigated and tried by the people's courts in accordance with law, and of other important cases.

The people's prosecutor's offices may ask the people's courts for the records of cases and study them to perform their examining functions.

Article 37

With regard to any bill of indictment received from the people's prosecutor's offices, the people's court may send it back for re-examination or to request supplementary evidence, if the court finds it necessary.

- 8 -

CONFIDENTIAL

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50X1-HUM

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Article 38

If the people's prosecutor's office considers a judgment by the people's court as illegal or not proper in any of the bills of indictment or in the cases in which the people's prosecutor's office has taken a part, it may file a protest; the original people's court shall send the protest, together with the records of the case, to the higher people's court for trial.

If the people's prosecutor's office regards as erroneous the final judgment in a case by the people's court, it may file a protest and ask for retrial. With regard to the final judgment by the Supreme People's Court, the Office of the People's Prosecutor General may also file protest and ask for retrial.

Article 39

These regulations shall come into force on the date of promulgation by the Central People's Government.

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- 9 -

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